



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

Busch Manufacturing, LLC

FOR

**Busch Manufacturing, LLC Facility
Registration No. 61731**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Busch Manufacturing, LLC, regarding the Busch Manufacturing, LLC facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Busch" means Busch Manufacturing, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Busch is a "person" within the meaning of Va. Code § 10.1-1300.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Facility" means the Busch Manufacturing, LLC facility, located at 516 Viking Drive in Virginia Beach, Virginia.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "Permit" means a Minor New Source Review permit to modify and operate a manufacturing facility, which is currently pending review under registration number 61731.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "TRO" means the DEQ Tidewater Regional Office located in Virginia Beach, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Busch owns and operates the Facility in Virginia Beach, Virginia. At the Facility, Busch designs, manufactures and services high performance vacuum pumps and designs and assembles vacuum pump systems.
2. On February 10, 2017, DEQ received an air permit application to operate three paint booths for the application of solvent coatings. Two paint booths were listed as constructed in 1989 and one paint booth was listed as constructed in 1982. Busch did not have a previous or existing air permit for the Facility.
3. Based on the evaluation and follow-up information, Department staff made the following observations:
 - a. Busch has been operating the three paint booths with emissions venting outside of the building. According to the air permit application and provided emissions calculations, an air permit is required for the operation of the paint booths.

- b. A review of DEQ files did not find notification of the operation of the paint booths, including construction, anticipated date of initial startup, or actual date of initial startup of the paint booths.
4. 9VAC5-80-1120(A) and 1210(E) state that no owner or operator shall begin actual construction, reconstruction, or modification of any stationary source without first obtaining from the Board a permit to construct and operate or to modify and operate the source.
5. 9VAC5-50-50(A) requires that any owner of a new or modified source provide written notice to the board of the date of commencement of construction, reconstruction or modification of a new or modified source no later than 30 days after such date.
6. On September 13, 2017, based on the February 10, 2017 application and follow-up information, the Department issued an NOV to Busch for the violations described in paragraphs C(3) through C(5), above.
7. On September 13 and 18, 2017, Busch responded to the NOV by indicating that it had identified the potential need for an air permit after an internal audit, hired a consultant to evaluate and prepare the air permit application, and hired a fulltime environmental specialist to complete the air permit application process and to ensure compliance with DEQ's regulations.
8. Based on the documentation submitted on February 10, 2017 and a review of DEQ files, the Board concludes that Busch has violated 9VAC5-80-1120(A), 9VAC5-80-1210(E), and 9VAC5-50-50(A), as described in paragraphs C(3) through C(5), above.
9. Busch submitted a Form 7 air permit application for a Permit on February 10, 2017, which will include the three paint booths. DEQ is in the process of reviewing the application. Busch also has notified DEQ of its construction and actual start-up dates.
10. Busch has submitted documentation verifying that the violations described in paragraphs C(3) through C(5), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Busch, and Busch agrees to pay a civil charge of \$23,272.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality

Post Office Box 1104
Richmond, Virginia 23218

Busch shall include its Federal Employer Identification Number (FEIN) 26-1528211 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Busch shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Busch for good cause shown by Busch, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. ATRO000706 dated September 13, 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Busch admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Busch consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Busch declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Busch to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Busch shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Busch shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Busch shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Busch. Nevertheless, Busch agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Busch has completed all of the requirements of the Order;
 - b. Busch petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Busch.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Busch from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Busch and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Busch certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Busch to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Busch.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Busch voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13 day of NOVEMBER, 2017.



Craig R. Nicol, Regional Director
Department of Environmental Quality

Busch Manufacturing, LLC voluntarily agrees to the issuance of this Order.

Date: 2 Nov, 2017 By: [Signature], General Manager
(Person) (Title)
Busch Manufacturing, LLC

Commonwealth of Virginia
City/County of Chesapeake

The foregoing document was signed and acknowledged before me this 2 day of November, 2017, by David Gulick who is General manager of Busch Manufacturing, LLC, on behalf of the limited liability company.

Rachel Nicole Begarek
Notary Public

7647573
Registration No.

My commission expires: February 28, 2019

Notary seal:

RACHEL NICOLE BEGAREK
NOTARY PUBLIC
REG. #7647573
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES FEB. 28, 2019